



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Katy Allen

**SUBJECT: PUBLIC USE AND NECESSITY  
HEARING – CHEN**

**DATE:** 03-17-04

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Approved

Date

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Council District: 5

## **RECOMMENDATION**

Adoption of a resolution:

- (1) Determining that public use and necessity require the acquisition of a portion of the property and a temporary construction easement over adjacent property located at 380 N. White Road (APN 599-01-057), owned by the Timothy Chen Revocable Trust;
- (2) Finding that: (a) The property to be taken is necessary for the completion of the White Road Widening Project from Mabury Road to McKee Road; (b) The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury; (c) City staff established an amount of just compensation not less than the approved appraisal of the fair market value; (d) City staff presented an offer to the owners for the full appraised amount; and (e) The proposed taking and use are authorized by law;
- (3) Directing the City Attorney to file an eminent domain action to acquire the above property interests.

CEQA: Negative Declaration, PP03-11-355.

## **BACKGROUND**

White Road is a north-south two lane arterial street that maintains significant pedestrian, bicycle, and traffic flow volumes. In November 1998, City staff met with County staff to discuss the development of a cooperative project to improve White Road between Penitencia Creek and McKee Road. At the time, the City had scheduled funding for construction in fiscal year 2002-2003. However, the County did not have funding for their portion of the improvements and the project was placed on hold. Then in June 2001, as part of the Mayor's Budget Message, Councilmember Campos requested the project be accelerated due to a development project that

was occurring in the area. In the subsequent Traffic CIP, the funding was accelerated and the project rescoped into two phases. The first phase of the project provided for the construction of a landscaped median island along White Road between Penitencia Creek and Mabury Road which has now been completed. The funding for the second phase of the project provides for the construction of street improvements between Mabury Road and McKee Road.

The segment between Mabury Road and McKee Road has several sections that require full street frontage improvements. The roadway geometrics in these sections do not meet current roadway standards. The street frontage improvements include curb, gutter, sidewalk, driveway aprons, landscaping, roadway paving and striping, electroliers and surface drainage along 16 parcels fronting White Road. The private property improvements include modifications to driveways, walkways and sprinkler systems, removing and replacing of fences and landscaping and re-grading private property frontages to provide necessary conforms to the street frontage improvements. Upon completion, the road will accommodate two lanes of traffic, a two way left turn lane, two bicycle lanes and sidewalk and parking on both sides of the street. The project includes coordination with utility companies and other agencies for utility extensions and/or relocations.

The owners of 15 of 16 parcels in the project have agreed to sell their property to the City and Council has approved their purchase agreements. The subject property is a vacant lot, and the project requires the acquisition 1,193 square feet of land to make the required improvements.

## **ANALYSIS**

The Project is necessary to bring the street up to current roadway standards, which will in turn improve traffic circulation, public safety and improvement of quality of life. Since this is a street improvement, the project cannot be completed without acquisition of the property in question, and the amount of property required for the project has been calculated to represent only that which is needed to complete the improvements. As a result, the property to be taken is not only necessary for the completion of the White Road Widening Project but is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

Moreover, City staff has established an amount of just compensation not less than the approved appraisal of the fair market value and presented an offer to the owners for the full appraised amount of \$36,100 for the portion of their property necessary to complete the street frontage improvements as well as a temporary construction easement (“TCE”) over adjacent property necessary for construction staging for these improvements.

This amount was based upon the full-appraised value of that portion of the property and TCE. The City’s attempts to negotiate a purchase with the owners, however, reached an impasse since

the owner's counteroffer exceeded the City's appraised value and is not within a reasonable range of market value. A map showing the subject property is attached as Exhibit A.

### **PUBLIC OUTREACH**

City staff held a public meeting on the project in October 1998. The project was also discussed with the property owner when City staff presented the offer to him.

### **COORDINATION**

Preparation of this memorandum has been coordinated with City Attorney's Office, the City Manager's Budget Office and the Departments of Transportation and Planning, Building and Code Enforcement.

### **COST IMPLICATIONS**

The appraised amount of \$36,100 will be deposited into the State Treasury Condemnation Fund. The court may determine that additional funds must be deposited later.

### **BUDGET REFERENCE**

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2003-04 Adopted Budget Page	Last Budget Action (Date, Ord.No.)
429	4022	White Road Penitencia to McKee	121406	\$1,167,000	N/A	Page 825	2/17/04, Ord. No. 27074

### **CEQA**

Negative Declaration, PP03-11-355.

KATY ALLEN  
Director, Public Works Department